

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**February 2, 2006**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 2, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; John W. McKay Jr.; Bill Johnson; Elizabeth Bishop; M.S. Mitchell; Don Anderson; Bud Hentzen; Ronald Marnell; Morris K. Dunlap and Michael Gisick. Bob Aldrich, Denise Sherman and Hoyt Hillman were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

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**1. Approval of January 19, 2006 meeting minutes.**

**MOTION:** Deferred

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❖ **SUBDIVISION ITEMS**

**2. Consideration of Subdivision Committee recommendations from the meeting of January 26, 2006.**

**2-1. SUB 2006-03: One-Step Final Plat – WILLOWBEND 9TH ADDITION.** located east of Rock Road and north of 37th Street North.

**NOTE:** This is a replat of a portion of Reserve A in the Willowbend First Addition. Although zoned LC, Limited Commercial, the lots are proposed for residential uses. Since a portion of the Reserve area is proposed to be vacated, the homeowners association was notified.

**STAFF COMMENTS:**

- A. Water services are available to serve the site. The applicant shall guarantee the extension of sanitary sewer lateral. An off-site sewer easement is needed.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- D. A reference is needed to section, township, and range.
- E. The drainage easement for the private storm drain should be deleted. A restrictive covenant should be established regarding ownership and maintenance responsibilities of the storm drain and address obstruction of surface drainage.
- F. Based upon the platting binder, property taxes are still outstanding. Before the plat is scheduled for City Council consideration, proof shall be provided indicating that all applicable property taxes have been paid.
- G. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- H. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- I. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- J. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- K. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- L. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- M. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre

or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.

- N. Perimeter closure computations shall be submitted with the final plat tracing.
- O. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- P. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- Q. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

**MOTION:** To approve subject to staff recommendations.

**ANDERSON** moved, **MITCHELL** seconded the motion, and it carried (11-0).

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**2-2. SUB 2005-154: One-Step Final Plat – REPLAT OF RICH'S ADDITION**, located north of 13th Street North and east of Hood.

**NOTE:** This replat of a portion of the Rich Addition includes the vacation of 15th Street, and a portion of Ferrell St. The site has been approved for Conditional Use (CON 2005-30) for a Major Utility to construct a sanitary sewer lift station.

**STAFF COMMENTS:**

- A. Municipal services are available to serve the site.
- B. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan is approved.**
- C. The title of the plat needs to be revised to read "Replat of Rich's Addition" and referenced in the plat's text accordingly.
- D. The applicant shall provide a guarantee for closure of the street return along Ferrell and Jeanette. A Street Return Closure Certificate in lieu of a guarantee may be provided.
- E. **GIS** requests that the street names should be labeled as Jeanette Ave and Ferrell Dr.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The dedication of access controls may be deleted from the face of the plat and reference deleted from the plat's text.
- I. The legend is incomplete.
- J. The Conditional Use approval required a variance for a proposed 15-ft setback along Ferrell. In lieu of the variance, the applicant may establish a 15-ft setback with the plat. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: [cholloway@wichita.gov](mailto:cholloway@wichita.gov)). Please include the name of the plat on the disc.

STRAHL This was approved for a Conditional Use, for a Major Utility to construct a sanitary sewer lift station, subject to replatting, and the platting includes a vacation of 15th Street, which has been replatted into a reserve and the vacation of Ferrell Street to the East. The sewer lift station is proposed for the reserve that is 40 feet wide then there is a 10 feet strip to the north and to the south for the adjoining property owners Lot 1 and Lot 2.

The single-family home on Lot 1, to the north, currently encroaches onto the right-of-way to Ferrell so there was a 5-foot strip included within Lot 1 so that the house would be included within the property lines. The owner of that property voiced concerns at our last week's Subdivision meeting regarding the setback of the house from Ferrell, the location of the right-of-way line, and the need for that portion of Ferrell Street adjoining his house. The subdivision case was approved last week with the understanding that these issues would need to be addressed, particularly since the property owner is a signatory on the plat. I discussed the matter yesterday with the subject property owner, and he said that he is willing to sign the mylar and let the plat proceed as long as the City would be agreeable to review a future vacation case of Ferrell Street adjoining his property.

MITCHELL Do you know how much he will need to satisfy his concern?

STRAHL I do not know.

BARRY DAVIS, 1600 N. Jeanette, Wichita, KS 67202 I did speak with Neil Strahl yesterday, and we are ready to sign and go forward with this thing with the current 5 foot. I don't have any intention or knowledge if I wanted additional land or maybe close the whole road, but I think that is another venue, or another debate. The team has done an excellent job working with me to get these plat boundaries established and I think we need to sign it and go forward and quit the hesitation.

**MOTION:** To approve subject to staff recommendations.

**MITCHELL** moved, **HENTZEN** seconded the motion, and it carried (11-0).

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❖ **PUBLIC HEARINGS – VACATION ITEM**

**3-1. VAC2005-49: Request to Vacate a Portion of a Platted Easement.**

**OWNER/APPLICANT:** Wilson Residential Co., LLC

**AGENT:** MKEC Engineering Consultants Inc., c/o Greg Allison

**LEGAL DESCRIPTION:** The west 5-feet of the 10-feet of the platted 20-foot utility easement located on the common lot lines of Lots 16 & 17 (Lot 17 is where that portion of the platted utility easement is located), Block 2, the Wilson Farms Second Addition, Wichita, Sedgwick County, Kansas, EXCEPT the north 15-feet and the south 25-feet thereof.

**LOCATION:** Generally located south of 21<sup>st</sup> Street north and west of Webb Road, north of Wilson Estates Parkway, on the south side of Churchill Circle (WCC District #II)

**REASON FOR REQUEST:** Additional space for constructing single-family residence

**CURRENT ZONING:** Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential

The applicant is requesting consideration for the vacation of the west 5-feet of the platted 20-foot utility easement located on Lot 17, Block 2, the Wilson Farms Second Addition. The applicant proposes to build a single-family residence on the site. The applicant

has provided responses from utilities, which indicates that they have no objections to the proposed vacation, with conditions. There are no manholes, water or sewer lines in the easement. The minimum width for an easement located in an interior side yard, per the Subdivision Regulations, is 10-feet. Per the UZC, the interior side yard setback for the "SF-5" zoning district is 6-feet. The 6-foot interior side yard setback remains in effect and an encroachment into it would require an Administrative Adjustment (20% reduction of the interior side yard setback) to remove the encroachment. The Wilson Farms Second Addition was recorded with the Register of Deeds May 25, 2000.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted utility easement as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time January 12, 2006, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described portion of the utility easement dedicated by separate instrument and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the utility easement dedicated by separate instrument described in the petition should be approved with conditions:
- (1) Vacate only that portion of the platted utility easement as described in the legal description, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
  - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
  - (3) All improvements shall be according to City Standards.
  - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:**

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted utility easement as described in the legal description, as approved by City Water & Sewer/Public Works. Provide Planning Staff the approved legal description of the vacated portion of easement, via e-mail on a Word document.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

**MOTION:** To approve subject to staff recommendations.

**MITCHELL** moved, **DOWNING** seconded the motion, and it carried (11-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: ZON2005-58** – Abiola Dipeolu & Joseph Donaldson Request Zone change from "TF-3" Two-family Residential to "NO" Neighborhood Office on property described as;

The West 10 feet of Lot 678, and all of Lots 679 and 680, Overlook Addition, Wichita, Sedgwick County, Kansas.  
Generally located North of Central, west of Oliver Avenue, on the east side of Crestway Avenue.

**BACKGROUND:** The applicants request "NO" Neighborhood Office zoning on the platted 0.22-acre site, which is currently zoned "TF-3" Duplex Residential. The site is located on the northeast corner of Crestway and Central Avenues. The site's current structure appears to be what was originally a single-family residence (approximately 1,428-square feet, single-story, wood lap siding, built late 1920s), facing Central with a detached single car garage in the back. Access to the garage is off of Crestway. There is a paved alley (which is blocked off by a fence located east of the site) abutting the back of the site by the garage, with a graveled area abutting the east side of the garage. There is a 6-foot wooden privacy fence around the back yard of the site. The applicants propose to convert this residential structure into an office. It appears the applicants have already begun the conversion and have a sign posted in the front yard advertising the business. The applicants were advised that the Unified Zoning Code (UZC, Art.IV, Sec. IV-E) permitted his proposed business as a "home occupation, office facilities". The applicants have stated that the office will be operating without an occupant on the site, thus canceling a possible "home occupation" status and that they also wanted a larger on-site sign than what was permitted for a home occupation. Staff also advised the applicants that a variance could be applied for, in regards to the sign they wanted and that is currently on site, if the office was operated as a "home occupation".

"TF-3" zoned lots that have been developed as duplexes are east of the site, extending up to where the block ends at Terrance Drive. The next block east of the site east is zoned "TF-3" and "MF-20" Multifamily Residential, and is developed with duplexes and four-plexes, with the exception of the east most corner property being zoned "GO" General Office. This "GO" zoned property is almost two blocks away and is the nearest nonresidential zoning on the north side of Central. The "GO" zoned property is also the west most extension of the commercial ("LC" Limited Commercial) zoning located around the Central – Oliver Avenues intersection, on the north side of Central. South of the site and across Central properties are zoned "TF-3" and "SF-5" Single-family Residential with development being overwhelming single-family residential. There is "LC" zoning almost two blocks east of the site on the south side of Central. Like the previously mention "GO" zoning, it is the west most extension of the commercial ("LC") zoning around the Central – Oliver Avenues intersection. "TF-3" zoning and a mixture of mostly single-family residences and some duplexes are located west, across Crestway Avenue, of the site. The nearest commercial/office zoning west of the site is seven blocks away. "TF-3" zoning and a mixture of mostly single-family residences and a few scattered duplexes are north of the site.

**CASE HISTORY:** The application area is platted as Lots 679, 680 and the west 10-feet of Lot 678, the Overlook Addition. The Overlook Addition was recorded with the Register of Deeds April 2, 1914.

**ADJACENT ZONING AND LAND USE:**

NORTH: "TF-3"	Single-family residences, duplex
SOUTH: "SF-5", "TF-3"	Single-family residences
EAST: "TF-3"	Duplexes
WEST: "TF-3"	Duplexes, single-family residences

**PUBLIC SERVICES:** Current traffic counts on this segment of Central Avenue are approximately 20,326 vehicles per day. Central is a four-lane, arterial street at this location with a 40-foot half street right-of-way (ROW). The 2030 Transportation Plan indicates no change in classification for this section of Central. Crestway Avenue is a paved residential street. The application area currently has no drive onto Central, but does have a drive onto Crestway. All public services are available at the site.

**CONFORMANCE TO PLANS/POLICIES:** The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies the application area as appropriate for "urban residential". The range of uses in this category include single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, playgrounds, parks and other similar residential serving uses may also be found in this category.

The Guide classifies the proposed office use as "local commercial". The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request does not conform to the Land Use Guide. The 2030 Transportation Plan projects this section of Central Avenue, between Oliver and Hillside Avenues, to remain a four-lane arterial, which is its current status and configuration. As observed, development around this section of Central is mostly single-family residential, fewer duplexes and even fewer four-plexes. Beyond this section of Central, east of Oliver and west of Hillside, Central is a five-lane arterial and the development around it is primarily commercial/retail/office. The conclusion can be drawn that the intent of the 2030 Transportation Plan for this section of Central would be to maintain the current residential development abutting it rather than phase it out with nonresidential development. In other words a change to a five-lane arterial status would have indicated the current residential development was declining to the point that the land use along this section of Central was in transition from low density residential to office/commercial and thus the "stripping out" of this section of Central would be appropriate; the 2030 Transportation Plan does change this section of Central's status as a four-lane arterial. The Comprehensive Plan's "office" locational goals indicate new strip development should be regulated to areas identified as "local or regional commercial" on the Land Use Guide. The Land Use Guide shows this site as appropriate for "urban residential". This site is a mid-mile site that is also inconsistent with the "office" location guidelines, which identifies "office" zoning as a transitional zoning that buffers residential zoning from more intense "commercial" zoning. Approval of the "NO" zoning at this location would insert a less restrictive zoning into the residential zoning/development without any buffering afford by a transitional zoning pattern.

**RECOMMENDATION:** The applicant's request is spot zoning and would be the first rezoning to allow isolated non-residential development to be introduced into the middle of the low-density residential neighborhood. If approved the requested zoning would encourage the breaking up of the current low density residential development along Central in a random and unpredictable manner with no transitional zoning to protect the remaining low density residential development. Therefore, based upon information available prior to the public hearings, Staff recommends DENIAL of the requested "NO" zoning

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: This proposed rezoning and land use is out of character with neighborhood's "TF-3" and "SF-5" zoning and its mostly single-family residences and duplex residential development. The nearest existing commercial/office zoning in the area radiates out from the Oliver – Central Avenues intersection, along Central, approximately 2 blocks from the site.
2. The suitability of the subject property for the uses to which it has been restricted: The property could continue to be used as a single-family residence or as a duplex as currently zoned. For the proposed "NO" zoning and office use the site is small and on site parking appears to be problematic. Currently the site has no access onto Central Avenue, but instead uses Crestway Avenue, a residential street, for access.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed "NO" zoning would allow nonresidential development to be introduced into the low-density residential neighborhood, at a location in the middle of the block. Allowing the proposed "NO" zoning could possibly lead to the beginning of the "stripping out" of Central Avenue in a random and unpredictable manner, which would compromise the low density residential neighborhood.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Functional Land Use Guide" of the *Wichita-Sedgwick County Comprehensive Plan* identifies this site as appropriate for "urban residential" development, which the proposed "NO" zoning is not in conformance with. The proposed rezoning is not in conformance with the Office Locational Guidelines of the plan, in that the site is not adjacent to existing commercial development and zoning, and would not serve as a transitional land use from more intense development to the existing residential development along this section of Central Avenue.
5. Impact of the proposed development on community facilities: The proposed office development could increase traffic at this location on Central.

HENTZEN Does that yellow color on the map indicate that it is all zoned "TF-3"?

LONGNECKER Correct.

HENTZEN But most of it is filled with single-family?

LONGNECKER The area you are referring to, east of the site between Crestway and Terrace and north of Central, all these structures are duplex except for the subject site, which appears to be a single-family residence in regards to design.

HENTZEN So all that yellow color, north of the subject property, is that all zoned "TF-3"?

LONGNECKER Yes, it is zoned "TF-3," and it is mostly developed as single-family residential with scattered duplexes.

BISHOP Can you explain why this case did not go to the DAB?

LONGNECKER Staff did not consider this case to be controversial. We saw it clearly as being a denial based on it being spot zoning. Staff advised the applicant of our recommendation, and in fact advised the applicant prior to taking their application that we would not support the request, and spoke with them of it being a possible home occupation, and of them applying for a variance for the signage. The DAB was notified and alerted to the case and they chose not to hear it.

MARNELL I take exception to your conclusion that the 2030 Transportation Plan designates this as a residential non-commercial area. It designates this section of Central as an arterial. I find your analysis erroneous in that this is an arterial street, and that the site meets the locational criteria for commercial uses being located adjacent to an arterial. I do agree with the report's finding that this is spot zoning.

LONGNECKER I plainly pointed out that it is a four-lane arterial in the report. I observed that the area around it is developed as low density residential, and that the 2030 Transportation Plan's keeping it as a four-lane arterial indicated that the area was still seen as a stable residential neighborhood, and that it was not a neighborhood in transition to nonresidential use. Beyond the Hillside and Oliver intersections of Central, Central is either a five-lane arterial or cited as becoming five lanes in the 2030 Transportation Plan. Development along Central beyond its Oliver, east, and Hillside, west, intersections are mostly nonresidential, and Central has been, for the most, part stripped out.

MARNELL Yes, this portion of Central is a four-lane arterial, which is outrageous. Central is an arterial that goes beyond Wichita. It connects Andover to the center of Wichita. This portion of Central does not reflect the volume of traffic along all of Central, and as such does not reflect Central's function as a major arterial

LONGNECKER What is interesting is that the development around this portion of Central is single-family residential and duplex, and the rest of Central, for the most part, is not.

MARNELL I am not arguing that a bit.

LONGNECKER I think what the 2030 Transportation Plan indicates is that this particular part of Central is not in any transition of use in regards to it still being a viable residential neighborhood.

MARNELL The Transportation Plan doesn't say anything about that.

LONGNECKER It does not say that, but the plan does not indicate a change in this section of Central's status as a four-lane arterial, and this area can be observed to be a stable residential neighborhood.

MARNELL I don't like to see staff reports where we see piling on, and this particular section of Central is a sore spot with me. It is a disgrace that it is not already in the CIP for improvement by making it a five-lane arterial. The use of the lots next to it does not matter, it is the street and its use and traffic that matters, and that is what is in the Transportation Plan. What is in the Transportation Plan is not the lots adjacent to it, and what they are even zoned, and that kind of inference in this report is like, lets pile on, and find 7-8 conditions and problems to pile on to deny the application. This type of analysis is frivolous, and shouldn't even be a part of the staff report.

LONGNECKER I respectfully disagree.

MARNELL That is why we have this forum, which allows us to express our differences of opinion. I just think it is an ill-conceived conclusion.

DR. JOSEPH DONALDSON, PH.D, 4402 E. Central, Wichita, KS 67208 I have a slide show to present today. The business is called 1<sup>st</sup> Starr Rehabilitation Behavior and Health. We are primarily a physiotherapy business. It is not a very large establishment at all. The sign is why we are here today. We put up a sign and anticipated drawing in some business. We also applied for a home based business as well, so we weren't aware of all the different nuances and signage. We went ahead contacted two sign companies and put a sign up, at some expense to us, and then we got a notice from OCI that the sign was not appropriate.

One of the reasons we chose this building is because it had a pretty big lot here for parking and off-street parking, as you can see with the graveled parking area at the back of the site, by the garage. This would be more than enough area for us to be able to park our customers. We own two duplexes right next to the place that we have, so we have no plans of changing anything, more traffic or widening streets. We want to use the back lot as our parking area, and our clients, and customers would come in through the front way. We have no intentions on changing the integrity of the neighborhood. We will put in a ramp for wheelchair accessibility. We see about two people on an hourly basis, so it will not cause any issues with the neighborhood. We haven't received any phone calls with any problems or causing problems with right-of-way. Let me show you a dentist office four blocks away. In the staff report it says that there are no home based businesses only seven blocks away, so that statement is not accurate. He has parking outside to the side of his establishment and we will have the parking in the rear. When I called and asked about this property, it has been there a number of years. I wanted to show you that there are several home-based businesses in the area.

Regarding the sign, we did contact the MAPD about options and alternatives after we received a notice. They did talk to us about a variance. They also assured us that there was no way that we would have an opportunity to keep that sign based on a variance. They recommended that we apply for Neighborhood Office. We thought that would be the best alternative, and that brings us here today. It wasn't that we chose not to go with a variance, we were advised and being new to Wichita we went with their better judgment. That is why we are here today.

DUNLAP You said you own the two duplexes to the east?

DONALDSON Yes.

DUNLAP Is that two buildings, or one building with two duplexes?

DONALDSON It is one building separated by two duplexes. It has two separate addresses.

DUNLAP It is one building?

DONALDSON It has two addresses. It is two buildings.

DUNLAP The parking out behind, is that behind the application lot? Or is that behind the duplexes to the east?

DONALDSON That parking is directly behind the site that is in question, as well as the two duplexes, all of them being our property. That gravel parking is all on our property.

MARNELL I don't know if you accidentally misspoke, but when you were showing pictures of the dentist office, you said it was a home-based business that would be the same as yours?

DONALDSON Yes.

MARNELL But I understood that nobody was going to live in your building, so you are not talking about a home-based business.

DONALDSON Again, that is true. We went on the recommendation of the "NO" Neighborhood Office, which allows us to be able to use it and come and go as we please, but it is at this point that it is not a home-based business. Also from what I understand, dentist offices are considered home-based businesses.

MARNELL If they live there.

DONALDSON Right, if they live there. We have no problem with having to live there. I would like to have the opportunity to see if this alternative zoning is available to us.

BISHOP I have a question about the additional duplex that you own. Do you intend to utilize the duplex for the clients that will be attending your business?

DONALDSON No, those are rental properties that I intend to keep for rental income.

RICKY POWELL, 510 N. Crestway, Wichita, KS 67208 I am the owner and live in the duplex north of the white house, the site. I am not in favor of this rezoning because we share this paved driveway. I am afraid the traffic from the business would have a negative impact, because when my grandchildren come to see us they play in the alley, because it is off the street. I also come in and out of this driveway when I pull in and out of my garage.

ABIOLA DIPEOLU, 4402 E. Central, Wichita, KS 67208 If we use this building as a living space there will be a lot more traffic then what we would have if we used it for the business. My husband and have 14 siblings all together, and if they come and visit us the traffic generated by them would be more than what the business would generate. We only see maybe two people, three days a week, and we have a right to use that place, because that is our place. We will not be changing anything in the neighborhood and we have duplexes in the area.

DONALDSON That gravel area is also for parking for our duplexes if they need that space to park their cars. For the most part the only person that parks on that gravel right now has been Ricky Powell. I have not seen children out there.

WARNER Is that gravel area public or do you own it?

DONALDSON We own it.

GISICK Is that a driveway or a vacated alley?

DONALDSON I am not sure.

LONGNECKER That is a platted alley. The records show that the alley goes all the way through the block, although it is fenced off before it goes all the way through. I could not find any record of it being vacated, even though it is fenced off. So we have an alley here that is for public access, anyone can use it. This other driveway is to the garage on the applicants' site, which they propose to rezone.

DUNLAP You said the alley does not go through, that it is fenced off?

LONGNECKER It is fenced off, and I can't find any record of it being vacated.

DUNLAP Is it fenced off on the property that we are talking about here?

LONGNECKER No, it is beyond these properties.

HENTZEN I think we voted unanimously to approve the Transportation Plan that identified that section of land as an arterial.

LONGNECKER Correct.

HENTZEN I don't think there are very many residential applications to build houses emptying onto an arterial.

LONGNECKER This is an established neighborhood across the street from College Hill, so you are not going to get application to build a house unless you would tear down a house.

HENTZEN I wonder if you or staff have considered all the owners between Oliver and Hillside on the north side of Central. I am thinking many of them are looking forward to the day when there will be some commercial development along there. If it is along an arterial and we voted for it then we ought to stand up and be counted. It looks like to me that this "NO" Neighborhood Office request is the way that we deal with close residential properties as opposed to heavy commercial or anything else. I am wondering, have you given that any consideration?

LONGNECKER Staffs' point is that if the properties along Central are going to be rezoned for non-residential use, the way to do it is not to jump in a mid-mile site and insert non-residential development. You are picking out this site for no really good reason, it obviously still could be used for residential development, but you are proposing that we jump two blocks from the last nonresidential zoning to rezone this. This is an example of spot zoning and what is the justification for it? If Central is going to be stripped out and this is the last portion that I am aware of between the canal route and I don't know how far east of Oliver that isn't stripped out, then it should be in a more systematic way.

**MOTION:** That we adopt the staff recommendation for denial of this application, based on the Comprehensive Plan and the findings in the staff report.

**BISHOP** moved, **ANDERSON** seconded the motion.

MARNELL I will support the motion to deny, notwithstanding Bill's conclusion on the Transportation Plan, which I believe is extremely erroneous. For the reason of the spot zoning, where it is, and that could function as "NO" Neighborhood Office. Unlike maybe Tyler Road where we have done some of those things where we can see where it is breaking apart, I don't think that is the case that far down from Oliver. I don't want my remarks to be interrupted in favor of the zoning, but simply opposed to how the Transportation Plan was being pulled in here erroneously.

MCKAY I went through the zoning map, and there are only six uses in "NO" Neighborhood Office that can't be put in the existing zoning. Those six uses are: colleges, correctional facilities, teller machines, bed and breakfast, medical services and regular office. All I am saying is that if we have two zoning categories that are that close together, maybe we need to re-exam what "NO" Neighborhood Office is in relationship to some of these other uses. I know "NO" Neighborhood Office zoning has not been in use that long and that maybe we should re-examine it.



JOHNSON This is a tough case, and I guess it is kind of compared to Item 3-1, which we had in Subdivision the other day. We have to have rules and regulations, but I think sometimes there has to be a way to use common sense, because in this particular case if used that home for living, the applicant's point about the traffic from family members coming and visiting versus 2-6 clients a week for the business is a good one. This request also reminds me of another case last week that the City heard, where we had some fencing requirements and all of the sudden the neighbors next to it didn't want it. So that became a real issue when coming from our side as the Planning Commission, of saying "yes" we need to do that because that is a regulation, but then the neighbors didn't want it. I am kind of in agreement with Commissioner McKay that maybe we need to look at things differently but because of the current code and plans, I don't know what else to do about it.

GISICK I am a realtor and just recently took a house that another agent had for six months located on this same arterial, at Roosevelt and Central, which is about six blocks to the west of this house. After taking the property from the other agent, I had it almost for a year and another agent had it a year after me, and it was reasonably priced. If you were looking for a house in College Hill this would be the house you would get, but nobody would buy it because it was on this arterial road, and their children could not play.

Obviously the neighbor, who spoke today, because his grandchildren are playing in an alley does not have worry about them playing in the street. I don't know if that is that right thing either, but they have a place to play and every person that was very interested in that property that came to me was looking for it as commercial and every single one of them asked how hard would it be for me to get the zoning changed? At that time I did not have very much knowledge at all, and I said I have no idea. But I know for something to happen, if it has to domino starting from both ends and then it has to happen evenly and systematically fall to the middle it could take many, many years for something like that to happen and there could be a shaking domino in the middle waiting to go that could go backwards and start the domino. I think a lot of people are waiting for the other shoe to drop in this area.

**MOTION to DENY carried (6-5). (GISICK, DUNLAP, WARNER, HENTZEN, and MCKAY opposed).**

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The Metropolitan Area Planning Department informally adjourned at 2:15 P.M.

State of Kansas)  
Sedgwick County) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)